

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PARK WEST GALLERIES, INC.,

Plaintiff,

v.

GLOBAL FINE ART REGISTRY, LLC,
THERESA FRANKS, and BRUCE HOCHMAN,

Defendants.

Case No. 2:08-cv-12247

Hon. Lawrence P. Zatkoff

PARK WEST GALLERIES, INC.,

Plaintiff,

v.

DAVID CHARLES PHILLIPS,

Defendant.

Case No. 2:08-cv-12274

Hon. Lawrence P. Zatkoff

OPINION AND ORDER

Plaintiff has designated certain portions of the direct examination it conducted with respect to the deposition of Phillipe duNoyer (“duNoyer”) and intends to read such portions into the record in this matter. Defendants Theresa Franks, David Phillips and Global Fine Art Registry, LLC (the “FAR Defendants”) intend to read into the record all of the cross-examination their attorney conducted of duNoyer at his deposition.

Before the Court addresses the substance of any objection, it notes that Fed.R.Civ.P. 32(d)(3)(B) provides:

Objection to an Error or Irregularity. An objection to an error or irregularity at an oral examination is waived if:

- (i) it relates to the manner of taking the deposition, the form of a question or answer, the oath or affirmation, a party’s conduct, or other matters that might have been corrected at the time; and

- (ii) it is not timely made during the deposition.

With respect to the portion of the duNoyer deposition to be read into the record by Plaintiff, Defendant Bruce Hochman recently filed 22 objections with the Court (Docket #300). Despite legal representation being present (telephonically) during duNoyer's deposition, however, Defendant Hochman did not make any objections during the deposition of duNoyer. Accordingly, the Court overrules all of Defendant Hochman's objections recently filed with the Court.

The FAR Defendants have filed four objections to the portion of the DuNoyer deposition to be read into the record by Plaintiff (Docket #297). The Court addresses each, in turn:

- A. Page 22, line 6 through line 11. Objected to as lacking foundation. This objection is overruled.
- B. Page 37, line 9 through line 12. Objected to as lacking foundation. This objection is sustained.
- C. Page 58, line 12 through line 16. Objected to as lacking foundation. This objection is overruled.
- D. Page 73, line 17, through page 75, line 25. Objected to as lacking foundation. This objection is overruled.

The parties also have notified the Court that testimony elicited at page 182, line 4, through page 183, line 13, should be redacted in light of the Court's ruling with respect to Motion in Limine #8. The Court agrees and Orders that such testimony be redacted before the duNoyer deposition is read into the record.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: March 30, 2010

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on March 30, 2010.

S/Marie E. Verlinde
Case Manager
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